IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

OP.No. 8538 of 2002(N)
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PETITIONER:
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D.RAJKUMAR, VILAYIL HOUSE,
THEVALLI P.O., KOLLAM.

BY ADV. SRI.A.SUDHI VASUDEVAN
SMT.BINDU K. NAIR

RESPONDENTS:
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1. FOREST RANGE OFFICER, MANNARAPARA,
KONNI FOREST DIVISION.

2. STATE OF KERALA, REP. BY ITS SECTRETARY.

3. DEPUTY CONSERVATOR OF FORESTS,KONNI,
PATHANAMTHITTA DIST.

BY ADV. RANJIT THAMPAN, GOVERNMENT PLEADER (FOREST)

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP 8538/2002

ORDER ON CMP NO. 15238/2002 IN OP NO. 8538/2002

DISMISSED.

21/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

**APPENDIX**

PETITIONER'S EXHIBITS

P1 : COPY OF THE TENDER NOTIFICATION DATED 10/06/2001 ISSUED BY THE 3RD RESPONDENT.

P2 : COPY OF LETTER DATED 17/01/2002 ISSUED BY THE 1ST RESPONDENT.

P3 : COPY OF THE ORDER DATED 30/01/2002 OF THE 2ND RESPONDENT.

P4 : COPY OF THE CHELLAN DATED NIL.

P5 : COPY OF THE CHELLAN DATED NIL.

RESPONDENT'S EXHIBITS

R1 (a) : COPY OF SALE NOTIFICATION.

R1(b) : COPY OF GAZETTE NOTIFICATION DATED 14/12/99.

R1(c) : COPY OF LETTER NO. 16/2001 DATED 17/01/2002.

R1(d) : COPY OF LETTER NO. KNC2-2114/2001 DATED 18/01/2002.

R1(e) : COPY OF LETTER NO. 1496/B2/2002/VANAM DATED 30/01/2002.

// TRUE COPY //

PA TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

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O.P. NO. 8538 OF 2002

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Dated this the 21st day of March, 2007

JUDGMENT

Petitioner is challenging demand of interest at 48% per annum for belated payment of sale consideration for purchase of teak poles by the petitioner from Forest Department. In principle, the challenge against the demand of higher rate of interest is not tenable because time is the essence of contract for sale of teak poles and if petitioner failed to make payment, it was open to the Department to cancel the sale and re-conduct auction at the risk and cost of the petitioner. However, petitioner was granted extension of time by demanding interest at progressive rates starting from 18% and ending with 48%. Higher rate of interest is provided as a disincentive against delay in payment. In the circumstances, in principle, the demand of interest at higher rate for belated payment is upheld because there is admittedly inordinate delay in making payment from the due date. However, since petitioner has remitted interest at 25% in this case under interim orders of this Court, O.P. is allowed quashing the demand of rate of interest over 25% and

in excess of already paid by the petitioner with direction to the petitioner to pay surcharge at 2.5 per cent in terms of the notification, failing which respondents can recover the same from the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge